

MONTANA LEGISLATIVE HISTORY

Chapter 249 19 27

Bill H 108 S _____ Original bill & history C

H. Committee on Taxation

Hearing Date(s) Jan 14 ☒ C

Jan 19 ☒ C

_____ C

_____ C

Date Out Jan 19 ☒ C

S. Committee on Taxation

Hearing Date(s) Mar 19 ☒ C

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Mar 19 ☒ C

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 HB BILL NO. 108
 2 INTRODUCED BY Sen. Duane L. Jensen, Williams, Gerke
 3 Lyrick BY REQUEST OF THE DEPARTMENT OF REVENUE
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION
 6 84-709, R.C.M. 1947, RELATING TO APPEAL TO THE STATE TAX
 7 APPEAL BOARD AND HEARING BY REQUIRING THE COUNTY TAX APPEAL
 8 BOARDS TO MAIL COPIES OF THEIR DECISIONS TO THE PROPERTY
 9 ASSESSMENT DIVISION OF THE DEPARTMENT OF REVENUE;
 10 LENGTHENING THE TIME FOR APPEAL OF COUNTY TAX APPEAL BOARD
 11 DECISIONS AND LENGTHENING THE TIME FOR NOTICE OF HEARING;
 12 AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
 13
 14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 15 Section 1. Section 84-709, R.C.M. 1947, is amended to
 16 read as follows:
 17 "84-709. Appeal to state tax appeal board -- hearing.
 18 Any person, firm, or corporation or the department of
 19 revenue in behalf of the state, or any municipal
 20 corporation, aggrieved by the action of any county tax
 21 appeal board, may appeal to the state board by filing with
 22 the county tax appeal board a notice of appeal, and a
 23 duplicate thereof with the state board, within ~~ten--(10)~~ 20
 24 days after the receipt of the decision of the county board,
 25 which notice shall specify the action complained of and the

1 reasons assigned for such complaint. ~~The county tax appeal~~
 2 ~~boards shall mail their decisions to the property assessment~~
 3 ~~division of the department of revenue. Receipt for purposes~~
 4 ~~of appeal by the department of revenue is when the county~~
 5 ~~tax appeal board decision is received by the property~~
 6 ~~assessment division of the department of revenue.~~ The state
 7 board shall set such appeal for hearing either in its office
 8 in the capitol or such county seat as the board shall deem
 9 advisable to facilitate the performance of its duties or to
 10 accommodate parties in interest, and shall give to the
 11 appellant and to the county board at least ~~five--(5)~~ 15 days'
 12 notice of the time and place of such hearing; at the time of
 13 giving such notice the state board may require the county
 14 board to certify to it the minutes of the proceedings
 15 resulting in such action and all testimony taken in
 16 connection therewith, and the state board may, in its
 17 discretion, determine the appeal on such record if all
 18 parties receive a copy of the transcript and are permitted
 19 to submit additional sworn statements, or may hear further
 20 testimony. For the purpose of expediting its work, the state
 21 board may refer any such appeal to one ~~of~~ of its members
 22 and the person so designated shall have and exercise all the
 23 powers of the board in conducting such hearings, and shall,
 24 as soon as possible thereafter, report the proceedings,
 25 together with a transcript of the testimony received, to the

1 board and the state board shall determine such appeal on the
2 record so made. On all hearings at county seats throughout
3 the state, the state board or the member designated to
4 conduct a hearing may employ the local court reporter or
5 other competent stenographer to take and transcribe the
6 testimony received, and the cost thereof may be paid out of
7 the general appropriation for the board. In connection with
8 any appeal, the state board shall have the authority to
9 affirm, reverse, or modify any decision appealable to the
10 state tax appeal board; the decision of the state tax appeal
11 board shall be final and binding upon all interested parties
12 unless reversed or modified by judicial review. To the
13 extent this section is in conflict with the Montana
14 Administrative Procedure Act, this section shall supersede
15 the Montana Administrative Procedure Act. The state tax
16 appeal board shall not have authority to amend or repeal any
17 administrative rule or regulation. The state tax appeal
18 board must give an administrative rule or regulation full
19 effect unless the board finds any such rule or regulation
20 arbitrary, capricious, or otherwise unlawful."

21 Section 2. Effective date. This act is effective on
22 its passage and approval.

-End-

in the counties and what proceeds might result. The implication is that reappraisal will raise values 50%. Property tax is only one-half of the total taxable property in the state. His guess is that real estate will go up about 30%. More than 20% of the properties assessed were less than what is on the current tax rolls. The whole impact of reappraisal is changing the mix of who is paying the tax. Rep. Fabrega stated the cost of government will be shifting from one area to another, particularly in the high industrial areas. The mix is the important factor - it isn't just a question of mill levy adjustment. The adjustment is hard to figure without reappraisal figures.

Keith Anderson thinks worthy projects should be funded rather than spending money that might be available. Non-property tax sources also produce a lot of revenue income.

Winsor advised there would be adverse reaction to a special session posing special attention on property tax reform because it is a very touchy problem. It behooves anyone to have complete information before them before making any decisions.

Rep. Jack Uhde, sponsor of HB 107 by request of the DOR, advised this bill exempts rights of entry from property taxation. Valuations of rights of entry vary from \$7.50 to no tax, and very little revenue is collected by
HOUSE BILL 107 the state and refunded to the county. The department of revenue feels the small amount of revenue received does not warrant the department's work of figuring the tax due, especially when the tax is refunded to the respective county from which it is derived. These rights are severed from mineral rights.

Gregg McCurdy, Montana Association of Counties, opposes the bill, stating that a number of counties object to this proposed deletion and want DOR to keep this tax on rights of entry on the tax rolls. Counties would lose \$1,486,088 of statewide taxable value.

Dennis Burr advised that it is almost impossible to find all the deeds and trace them down to present owners. The question of how to handle the rights of entry on property that has been divided several times is uncertain. He believes it is the county assessor's job, but since the DOR pays their salaries, it is really the department's expense. He feels it would be a very burdensome task and most complicated. He recommends the rerecording of reserved rights of entry by the owners. The question of taxing on the basis of a fee rather than on taxable value arose.

Rep. Elmer Severson at the request of the DOR, sponsored HB 103 which offers a change in time for notice of appeals of tax cases. Helen Peterson, State Tax
HB 108 Appeal Department, wants county boards to notify the DOR rather than the county assessor or county treasurer, and wants the tax appeal date set earlier - suggested 15 days should be sufficient time in which to make up their minds whether to appeal tax assessments. She doesn't want to delay hearings too long and wants the time shortened to meet other deadlines.

The appeal process goes from the taxpayer to the county tax appeal board to the Department of Revenue to the State Tax Appeals Board, then to district court, and more time is needed in which to plan to hear the appeals.

Bob Randall, STAB, stated they try to make the hearings at the convenience of the taxpayer and they go to the counties to hold hearings. Large hearings are held in Helena. The county assessor or appraiser is the chief witness and so by going to county seats, and planning a schedule to do this, some cost to STAB is eliminated. A hearing could not be held until after 15 days' notice to the taxpayer and to DOR, and they feel this is too much time elapse. Propose a calendar day as being definition of day.

The DOR wants 20 days' notice so they will have time to see if they want to appeal to the district court.

The committee meeting adjourned and went into an executive session.

HOUSE BILL 98 - Rep. Fabrega moved that the proposed amendments, copy of which is attached, be accepted. Motion carried unanimously with Rep. Lien absent. Rep. Dassinger moved that the word "knowingly" be eliminated - vote was 12 to 3 in favor of the motion.

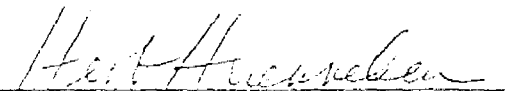
Rep. Fabrega moved to recommend House Bill 98 AS SO AMENDED DO PASS. Unanimous decision in favor of motion.

HOUSE BILL 107 - Rep. Jack Uhde recommends that HouseBill 107 be studied by an interim committee. This will be further considered later.

House Bill 108 was considered, but no action was taken.

A subcommittee was appointed for House Bill 50. Rep. Melvin Williams, chairman; Reps. Bertelsen, and Gilligan are to be the members.

The meeting adjourned at 11:00 a.m.



REP. HERB HUENNEKENS, Chairman

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miles on them. Thinks this bill will correct this problem. The committee feels it is important for traffic education in schools. This is going to hurt driver education programs if cars cannot be loaned. School pays for servicing cars. The original buyer will have to pay the sales tax.

EXECUTIVE SESSION

HOUSE BILL 106 - Rep. Waldron moved that HB 106 BE TABLED. Unanimously adopted.

HOUSE BILL 168 - Rep. Fabrega moved that HB 168 DO PASS. Rep. Sivertsen made a substitute motion to recommend DO NOT PASS. Rep. O'Keefe made a substitute motion for all motions pending that HB 168 be considered after information on how the National Guard is funded. The suggestion was made by Rep. Waldron that a raise in pay instead of a deduction of \$1,000 in income tax of guard pay only be made. Information on how the guard is funded will be studied by O'Keefe.

HOUSE BILL 166 - Rep. Fagg made a motion that HB 166 DO NOT PASS. Rep. Fabrega made a motion to recommend that HB 166 BE TABLED until other information is received in connection with this type of legislation since other bills are forthcoming. FOR TABLING 12-5.

HOUSE BILL 157 - Rep. Lien made a motion to recommend DO PASS for HB 157. Unanimously adopted.

HOUSE BILL 169 - Rep. Vincent made a motion to recommend HB 169 DO PASS. Approved unanimously.

HJR 4 - Rep. Lien recommended DO PASS. Rep. Vincent moved to defer action until a new fiscal note could be obtained with information as the committee wanted it determined instead of a 50-50 split across the board - more pertinent information.

Rep. Vincent moved to defer action on HJR 4 until a fiscal note from another source is received. A new note is to be requested from the budget office, and then from the legislative fiscal analyst. Unanimously approved.

HOUSE BILL 25 - Amendments were discussed, and some changed, as per copy attached. Rep. Williams made a motion that amendments as corrected for HB 25 be accepted. Adopted unanimously. Rep. Williams made a motion that HB 25 AS SO AMENDED DO PASS. All members voted yes. This bill will be held for other amendments.

HOUSE BILL 108 - Rep. Dassinger moved that page 1, section, line 23 be amended by striking "20" and inserting "15". This was unanimously adopted. (A day is a calendar day unless otherwise specified.)

Rep. Fabrega moved that the word "calendar" be inserted after "15". The vote showed 12 to 5 in favor of the addition.

Rep. Dassinger moved that on page 2, section 1, line 11, "15" be changed to "10" days. Rep. Fabrega made a substitute motion that "15" days remain in the bill. Motion carried with Dassinger, Lien, Sivertsen,

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and Bertelsen voting No.

Rep. Fabrega moved that the word "calendar" be inserted after the "15" days. The same vote as before was anticipated, so the motion was adopted.

Rep. Severson moved that HB 108 AS SO AMENDED DO PASS.

Rep. Vincent moved that page 1, section 1, line 21, have "15" stricken and "20" reinserted. Reps. Dassinger, Gilligan, O'Keefe, Williams and Lien voted No - motion carried.

Returning to the original motion of AS SO AMENDED DO PASS - motion was adopted unanimously.

HOUSE BILL 107 - Rep. Dassinger moved to recommend that HB 107 DO NOT PASS.

Rep. Sivertsen made a substitute motion that HB 107 DO PASS. Rep. Fabrega made a substitute motion for all motions pending that HB 107 BE TABLED. This motion was adopted unanimously.

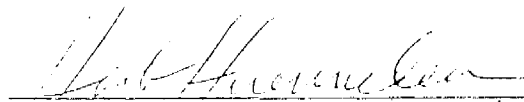
HOUSE BILL 113 - Rep. Dassinger moved to recommend HB 113 amendments be adopted. All members voted Yes, except Rep. Waldron who voted No.

Amendment: "(c) If an owner fails to pay property taxes due and the penalties and interest incurred on that tax for two years, the county treasurer may take into his possession the mobile home or any other personal property in the hands of the delinquent taxpayer and proceed to sell them as provided in Chapter 58, Title 93."

Rep. Waldron moved that the "two" years in the amendment be changed to "three" years. Reps. Lien and Hirsch were out of the room, but all other members except Rep. Waldron voted No. Motion was defeated.

Rep. Waldron moved that action on HB 113 be deferred to a later date. Decision was unanimous in favor.

Committee adjourned at 11:00 a.m.



REP. HERB HUENNEKENS, Chairman

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 19, 1977

The forty-seventh meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Mathers at 8:05 a.m.

ROLL CALL: Roll call found Sens. Towe, Brown, Roskie absent, excused.

The following witnesses were present:

Gerald F. Raunig	Mont. Auto Dealers Assoc.
Norris Nichols	Dept. of Rev.
Rep. Ed Lien	
Larry Huss	Mont. Truck-Stop Operators
Ray Havig	Bairs Truck Stops
Charles Cornett	BPC Service Corp.
Walter Bazzanella	Walt's Travel Center, Inc.
Harry H. Allen	Husky Truck Stop, Helena

CONSIDERATION OF HOUSE BILL 108: Rep. Severson presented the bill which he said was at the request of the Department of Revenue. He said the bill lengthens the time from 10 to 20 days for appeals on tax assessments, decisions would be sent to the D.R. rather than the STAB, and lengthens from 5 to 15 days the time in which to give notice of the appeal.

The Chairman asked for other proponents or opponents and there being none, permitted questions from the committee.

DISPOSITION: Sen. Goodover Moved HB108 Be Concurred In. Motion carried unanimously.

CONSIDERATION OF HOUSE BILL 169: Rep. Harrington, Dist. 88, said this bill deals with state approved drivers' ed programs and the autos used. He said some county assessors are asking school districts to change the title of the cars used in the programs and the car then becomes a used car, subject to property tax for the dealer. The dealers provide these cars free to the school districts and when the car is returned they are sold as demonstrators. He introduced Mr. Ronig who gave his support to the bill. He said there have been problems in some districts the last couple of years. The cars are returned with perhaps 2 to 5 or 6 thousand miles on them and they are sold as demonstrators, however some counties are insisting they be labeled as used cars and the car dealers then are taxed for them as used cars. He said he believed the bill would take care of the problems.

Chairman Mathers asked for other proponents or opponents and there were none, so the committee asked questions of the witnesses and it was pointed out that if HB193 were to pass, this bill would not be necessary, therefore the committee will hold the bill until they learn the disposition of HB193.

STANDING COMMITTEE REPORT

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MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 108

Respectfully report as follows: That HOUSE Bill No. 108

BE CONCURRED IN

~~DUPASS~~

OK

HOUSE BILL NO. 108

INTRODUCED BY SEVERSON, WILLIAMS, GERKE, WYRICK

BY REQUEST OF THE DEPARTMENT OF REVENUE

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND SECTION 84-709, R.C.M. 1947, RELATING TO APPEAL TO THE STATE TAX APPEAL BOARD AND HEARING BY REQUIRING THE COUNTY TAX APPEAL BOARDS TO MAIL COPIES OF THEIR DECISIONS TO THE PROPERTY ASSESSMENT DIVISION OF THE DEPARTMENT OF REVENUE; LENGTHENING THE TIME FOR APPEAL OF COUNTY TAX APPEAL BOARD DECISIONS AND LENGTHENING THE TIME FOR NOTICE OF HEARING; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 84-709, R.C.M. 1947, is amended to read as follows:

"84-709. Appeal to state tax appeal board -- hearing. Any person, firm, or corporation or the department of revenue in behalf of the state, or any municipal corporation, aggrieved by the action of any county tax appeal board, may appeal to the state board by filing with the county tax appeal board a notice of appeal, and a duplicate thereof with the state board, within ~~ten--(10)~~ 20 CALENDAR days after the receipt of the decision of the county board, which notice shall specify the action

complained of and the reasons assigned for such complaint. ~~The county tax appeal boards shall mail their decisions to the property assessment division of the department of revenue. Receipt for purposes of appeal by the department of revenue is when the county tax appeal board decision is received by the property assessment division of the department of revenue.~~ The state board shall set such appeal for hearing either in its office in the capitol or such county seat as the board shall deem advisable to facilitate the performance of its duties or to accommodate parties in interest, and shall give to the appellant and to the county board at least ~~five--(5)~~ 15 CALENDAR days' notice of the time and place of such hearing; at the time of giving such notice the state board may require the county board to certify to it the minutes of the proceedings resulting in such action and all testimony taken in connection therewith, and the state board may, in its discretion, determine the appeal on such record if all parties receive a copy of the transcript and are permitted to submit additional sworn statements, or may hear further testimony. For the purpose of expediting its work, the state board may refer any such appeal to one ~~(1)~~ of its members and the person so designated shall have and exercise all the powers of the board in conducting such hearings, and shall, as soon as possible thereafter, report the proceedings, together with a transcript of the testimony

1 received, to the board and the state board shall determine
2 such appeal on the record so made. On all hearings at county
3 seats throughout the state, the state board or the member
4 designated to conduct a hearing may employ the local court
5 reporter or other competent stenographer to take and
6 transcribe the testimony received, and the cost thereof may
7 be paid out of the general appropriation for the board. In
8 connection with any appeal, the state board shall have the
9 authority to affirm, reverse, or modify any decision
10 appealable to the state tax appeal board; the decision of
11 the state tax appeal board shall be final and binding upon
12 all interested parties unless reversed or modified by
13 judicial review. To the extent this section is in conflict
14 with the Montana Administrative Procedure Act, this section
15 shall supersede the Montana Administrative Procedure Act.
16 The state tax appeal board shall not have authority to amend
17 or repeal any administrative rule or regulation. The state
18 tax appeal board must give an administrative rule or
19 regulation full effect unless the board finds any such rule
20 or regulation arbitrary, capricious, or otherwise unlawful."
21 Section 2. Effective date. This act is effective on
22 its passage and approval.

-End-